



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,153	10/22/2003	Kenneth E. Williams	KEW-101A	5885

7590 09/21/2004

Kenneth P. Glynn, Esq.
Glynn & Associates, P.C.
24 Mine Street
Flemington, NJ 08822

EXAMINER

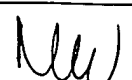
ARK, DARREN W

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/692,153	Applicant(s) WILLIAMS ET AL.	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 11-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/10/04.

Specification

2. The disclosure is objected to because of the following informalities:

Page 9, line 4, "witch" should be changed to "switch".

Appropriate correction is required.

Claim Objections

3. Claims 1-10 are objected to because of the following informalities:

Claim 1, line 6, ":" should be replaced with ";".

Claim 9, line 3, a "." should be at the end of the line.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, line 7, the term "a dust reservoir" renders the claim vague and indefinite since this term was previously set forth in line 6.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yost 2,802,302 in view of Al-Rawi 4,751,791.

Yost discloses a pole (10); a dust dispensing nozzle (18); a dust reservoir (16) which is transparent (see cross section in Fig. 3 showing glass material) and graduated (at neck of jar 16 the shape changes gradually; "graduate" defined as "to change gradually"); a conduit (17) with an upper end connected to the reservoir (through 15) and a lower end connected to an air source (connected to blow tube 20 via the inside of 10); a ported cap (15), but does not disclose an air compressor. Al-Rawi discloses that the prior art devices utilize a conduit with an upper end joined to a reservoir (pollen holder; see Figs. 1-3) and the lower end joined to an air compressor (air pump or bulb in Figs. 1-3 or 33 in Fig. 7). It would have been obvious to a person of ordinary skill in the art to employ the air compressor of Al-Rawi in the device of Yost in order to provide a source of air which saves the user's energy by alleviating the need for the user to use his own breath.

In regard to claim 3, Yost and Al-Rawi disclose battery powered air compressors (34 and see col. 2, lines 3-7 of Al-Rawi), but do not particularly disclose rechargeable power source. It would have been an obvious matter of design choice to employ a

Art Unit: 3643

rechargeable power source in order to reuse the same batteries without having to buy new ones and also to conserve natural resources.

In regard to claim 8, Yost and Al-Rawi disclose the conduit upper end connected to the reservoir at a lower portion of the reservoir (see Figs. 1-4 of Al-Rawi).

In regard to claim 10, Yost and Al-Rawi disclose the reservoir being threaded (16 of Yost is threaded to receive 15), but does not disclose the reservoir made of polyvinyl. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the reservoir out of polyvinyl, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because polyvinyl can be formed into many different shapes, sizes and configurations very easily. *In re Leshin*, 125 USPQ 416.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yost 2,802,302 in view of Al-Rawi 4,751,791 as applied to claim 6 above, and further in view of Zerbetto 3,368,591.

Alternatively, Yost and Al-Rawi do not disclose a graduated reservoir. Zerbetto discloses a graduated transparent reservoir (10 with volumetric graduation 13). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the reservoir of Yost and Al-Rawi such that it is graduated in view of Zerbetto in order to provide the user with an indication of the amount of material within the reservoir still remaining during use and also to allow the user to meter the contents as desired.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA